

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TALECRIS BIOTHERAPEUTICS, INC., and )  
BAYER HEALTHCARE LLC, )

Plaintiffs, )

v. )

BAXTER INTERNATIONAL INC., and )  
BAXTER HEALTHCARE CORPORATION, )

Defendants. )

C.A. No. 05-349-GMS

Jury Trial Demanded

REDACTED VERSION DI 357

BAXTER HEALTHCARE CORPORATION, )

Counterclaimant, )

v. )

TALECRIS BIOTHERAPEUTICS, INC., and )  
BAYER HEALTHCARE LLC, )

Counterdefendants. )

PLAINTIFFS' MOTION TO EXCLUDE DR. TERENCE SNAPE'S  
NON-INFRINGEMENT OPINIONS

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Redacted Version Filed: July 5, 2007  
Date: June 27, 2007

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Plaintiffs and Counterclaim Defendants Talecris Biotherapeutics, Inc. and Bayer Healthcare LLC (collectively, "Plaintiffs") respectfully request leave to file the attached Motion to Exclude Dr. Snape's Noninfringement Opinions (hereinafter the "Motion"), precluding Defendants Baxter International Inc. and Baxter Healthcare Corporation (collectively, "Baxter") from calling Dr. Terrence Snape as a witness at trial to provide opinions related to Baxter's alleged non-infringement of U.S. Patent No. 6,686,191 ("the '191 patent"). (Ex. A.)

**Statement of Compliance with D. Del. LR. 7.1.1**

On June 26, 2007, Plaintiffs attempted to reach an agreement with Baxter regarding the subject matter of this motion, but were unable to do so. (Mason Dec.<sup>1</sup>, Ex. 1.)

Plaintiffs request leave to file the Motion based on the parties' discussions with the Court and the Court's guidance during the June 14, 2007 Pretrial Conference. Specifically, the Court stated that "it seems reasonable for [Plaintiffs] to move" (D.I. 353 at 29:18-9) on the issue of whether Baxter is "entitled to bring Dr. Snape to trial to opine on noninfringement" (*id.* at 28:20-24) in light of the Court's Order granting Plaintiffs' Motion *in Limine* No. 4 (*id.* at 27:5-21) once Baxter had "an opportunity to consider the impact of the Court's ruling" (*id.* at 29:20-21).

For these reasons, and for the reasons set forth in the attached Motion, Plaintiffs respectfully request that the Court grant Plaintiffs leave to file the Motion.

A proposed form of Order is attached hereto as Exhibit B.

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<sup>1</sup> The "Mason Dec." is the Declaration of Jaclyn M. Mason in Support of Plaintiffs' Motion for Leave to File Plaintiffs' Motion to Exclude Dr. Terence Snape's Noninfringement Opinions, filed concurrently herewith.

Date: June 27, 2007

Respectfully submitted,

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547418

/s/ Jeffrey B. Bove  
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**CERTIFICATE OF SERVICE**

I hereby certify on this 27th day of June, 2007 I electronically filed the foregoing **Plaintiffs' Motion for Leave to File Plaintiffs' Motion to Exclude Dr. Terence Snape's Non-Infringement Opinions** with the Clerk of Court using CM/ECF which will send notification of such filing to the following:

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I also hereby certify that a true copy of the foregoing document was served upon the following in the manner indicated on June 27, 2007.

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